

FILED
Clerk
District Court

JAN 30 2014

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

for the Northern Mariana Islands
By 
(Deputy Clerk)

UNITED STATES OF AMERICA,

Case No. 1:99-CV-00017

Plaintiff,

**ORDER RE: JOINT MOTION TO
TERMINATE CONSENT DECREE**

vs.

**COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS, *et al.*,**

Defendants.

This matter came on for a status conference on January 30, 2014. Jeffrey R. Murray, of the Department of Justice's Civil Rights Division, appeared by telephone for Plaintiff United States of America. Assistant Attorney General Teresita J. Sablan appeared for Defendant Commonwealth of the Northern Mariana Islands and all Commonwealth defendants. Three days prior to the status conference, the parties filed a Joint Motion to Terminate Consent Decree (ECF No. 61). At the status conference, the Court announced that it will defer ruling on the Joint Motion pending the parties' submission of a Final Report. This Order gives some background about the case and describes what the contents of the Final Report should be.

In 1999, the United States and the Commonwealth of the Northern Mariana Islands entered into a Consent Decree (ECF No. 4) to ensure that the Commonwealth's correctional and detention facilities provide adequate health and safety conditions for inmates. The Consent Decree details a series of actions that the Commonwealth agreed to undertake with respect to (1) short-term and long-term planning for the operation of such facilities, (2) fire safety, (3) sanitation, (4) medical care, and (5) security and protection of inmates from harm. The Consent Decree foresaw that the

1 Commonwealth might pursue these goals in part by constructing new facilities on Saipan to house
2 adult and juvenile inmates, and indeed such facilities have been built. Over the past 15 years, both
3 parties have worked together in good faith to achieve the objectives of the Consent Decree and
4 have regularly reported their progress to the Court, most recently with regard to the provision of
5 medical services generally and to security at the Juvenile Detention Unit. The Court is gratified by
6 the spirit of cooperation that the parties have displayed, and applauds their efforts to bring this
7 matter to a successful conclusion.
8

9 In considering a motion to terminate, a court must determine whether the defendant has
10 substantially complied with the terms of the consent decree. *Jeff D. v. Otter*, 643 F.3d 278, 285
11 (9th Cir. 2011). To make that determination with respect to the Consent Decree in this matter, the
12 Court needs more information than the Joint Motion provides.

13 For example, the Decree calls for each detention facility to have a backup generator that
14 complies with the National Fire Protection Association Code and is capable of powering essential
15 functions. (Consent Decree ¶ 16.) The generators are to be tested weekly and serviced regularly.
16 (*Id.*) From the Joint Motion itself, the Court cannot determine whether, or to what extent, this
17 provision has been complied with. The Joint Motion refers broadly to status reports filed by the
18 Commonwealth in 2006 (ECF No. 24) and 2008 (ECF No. 31) and supplemented by more than
19 150 attachments addressing particular action items. But it does not pinpoint which (if any) of these
20 attachments shows that proper backup generators had been put in place. Moreover, there are no
21 affidavits or other documents attesting that in 2014 those same generators are still in good
22 condition and being regularly tested and serviced. Other provisions of the Consent Decree that
23 envision not only a short-term fix but long-term gains include (but are not limited to) maintenance
24 of septic systems in working order (¶ 56), maintenance of a log of security checks at 15-minute
25
26

1 intervals in inmate housing areas (§ 58), and establishment of a preventive maintenance protocol
2 to ensure that food service equipment functions properly and that utensils are clean and sanitary (§
3 39). Such provisions similarly need documentation to show substantial compliance.


4 For these reasons, the Court ORDERS as follows:

5 (1) The parties shall prepare and file, **no later than April 30, 2014**, a Final Report on
6 compliance with the Consent Decree. The Final Report should systematically address
7 each of the provisions of the Consent Decree, describing the actions that have been
8 taken to achieve compliance with each provision and the extent to which compliance
9 has been achieved. Particular attention should be paid to any policies and procedures
10 that are in place to ensure maintenance of these successes after the Consent Decree is
11 terminated. The parties are encouraged to supplement the Final Report with affidavits
12 by persons with knowledge, as well as other appropriate documentation. The Final
13 Report may refer to documents and other evidence already in the record, but should
14 give pinpoint citations to the page or paragraph where evidence of compliance with a
15 specific provision will be found.
16

17 (2) A final hearing on the Joint Motion is set for **May 15, 2014, at 8:30 a.m.**

18 (3) At the status conference, the parties indicated they hope to complete the Final Report
19 well before April 30. If they do so, they may move to advance the final hearing to an
20 earlier date.
21

22 SO ORDERED this 30th day of January, 2014.

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24 _____
25 RAMONA V. MANGLONA
26 Chief Judge